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EXAMINER

RIVIERE, HEIDI M

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/720,777	<b>Applicant(s)</b> MCMORRIS ET AL.	
	<b>Examiner</b> HEIDI RIVIERE	<b>Art Unit</b> 3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,6-10,12-15,18-28,30-32,34-38,40-51 and 53-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 6-10, 12-15, 18-28, 30-32, 34-38, 40-51, 53-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9 April 2009</u> .  | 6) <input type="checkbox"/> Other: _____                          |



## DETAILED ACTION

### RESPONSE TO REMARKS

1. Applicants' arguments with respect to claims **1, 4, 6-10, 12-15, 18-28, 30-32, 34-38, 40-51, 53-67** have been considered however they are not persuasive and therefore the rejections have not been withdrawn. Examiner used **Sandor** in view of **Schomer** to reject the pending claims.

2. The pending claims were rejected under 35 U.S.C. 112 paragraph 1 for lack of enablement. Applicant argues "Nevertheless, not everything necessary to practice the invention need be disclosed. In fact, what is well-known is best omitted." MPEP Section 2164.08 (citing *In re Buchner*, 929 F. 2d 660, 661, 18 U.S.P.Q.2d 1331 (Fed. Cir. 1991)).

The Court of Appeals for the Federal Circuit in *In re Buchner* affirmed the Examiner's decision to reject the claims presented as lacking enablement and failing to contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Likewise, Applicant presents a system and method for tracking Environmental Emission Reduction without the details necessary to understand how this system works or to enable one of ordinary skill in the art can make or use the system. Specifically, enablement is lacking for essential claimed limitations both steps and structure of the current invention. What defines the protocol selected? How is it determined? What formula(s) is/are used to convert the

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data? What is the emission reduction unit and how is it calculated or is it a physical structure? How is the calculation performed? The applicant has provided no formulas with which the applicant performs the calculation. A mere statement that an element of an invention is well-known is not enough to overcome a rejection. Furthermore, where is novelty if all the essential elements of the invention are old and well-known? According to Applicant on page 15 of the Remarks, one skilled in the art would know how to collect the production practice data, which protocol and conversion factors to use “to convert the production practice data to environmental data and then to an emission reduction unit for a transferring, thereof”. Please note the 112 Paragraph 2 rejection for the claims in regards to the current amendment.

Furthermore, the claims were rejected using 35 U.S.C. 103. The Sandor reference teaches the use of identifiers to mark the credits serving the obvious purpose of tracking what the credit is for and where it was taken.

As a result, the rejections have not been withdrawn.

3. The discussion regarding the 35 USC 101 rejection has been acknowledged and are not persuasive. Applicant argues that as long as the data claimed is transformed the Bilski, 35 U.S.C. 101 requirements are satisfied. However, the data is not transformed and as such remains the same subject matter even when converted to emission reduction using. The idea of adding an identifier, noted in the current amendments is merely a labeling act. Therefore, the rejections are not withdrawn.

The claims are also amended to include the term “processing device” more than likely as a way of overcoming the 35 USC 101 rejection. However, while the

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specifications of both the current and the incorporated by reference 10/720,797 mention the term "processing" synonymously with "conversion" which does not need another statutory to be performed. There is a mention of production processes but no mention of what is used in the processing and it remains unclear how the production process converts production practice data. Please note the 112 Paragraph 2 rejection for the claims in regards to the current amendment.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claim 1, 4, 6-10, 12-15, 18-28, 30-32, 34-38, 40-51, 53-67** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The applicant's specification does not adequately disclose sufficient guidance and direction to enable one of skilled in the art to make or use the Applicant's invention. For example, in claim 1, the applicant refers to the steps of *selecting a production practice of the producer, selecting a protocol applicable with the production practice, converting the production practice data to environmental data using pre-selected*

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*conversion factors, converting the environmental data to an emission reduction unit for a transferring thereof.* Referring back to the written description of the invention, Applicant fails to provide sufficient direction or working examples of: what defines the protocol selected? How is it determined? What formula(s) is/are used to convert the data? What is the emission reduction unit and how is it calculated or is it a physical structure? How is the calculation performed? The applicant has provided no formulas with which the applicant performs the calculation. Also, the applicant has not defined what an emission reduction unit is.

More guidance is necessary in the present application based on Applicant's own disclosure stating "[u]nfortunately, standards for serialization and registration are sketchy and inconsistent" (Specification: page 3). Despite this statement Applicant fails to provide sufficient guidance and direction regarding the claimed invention. Instead the written description is replete with generalizations hence failing to provide specific direction.

Furthermore, while the previous rejections are not withdrawn, the current amendments are rejected as well. Applicant has amended the claims to include the term "processing device", however, while the specifications of both the current and the incorporated by reference 10/720,797 mention the term "processing" synonymously with "conversion" which does not need another statutory to be performed. There is a mention of production processes but no mention of what is used in the processing.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims **1, 4, 6-10, 12-15, 18-28, 30-32, 34-38, 40-51, 53-67** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Applicant has amended the claims to include the term "processing device", however, while the specifications of both the current and the incorporated by reference 10/720,797 mention the term "processing" synonymously with "conversion" which does not need another statutory to be performed. There is a mention of production processes but no mention of what is used in the processing.

### ***Claim Rejections - 35 USC § 101***

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. **Claims 1, 4, 6-10, 12-15, 18-28, 30-32, 34-38, 40-51, 53-67** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

According to recent Federal Circuit decisions, in order for a process to be a proper process under 35 USC 101, it must be tied to another statutory class of invention (such as a particular apparatus) or transform subject matter to a different state or thing. If neither of these requirements is met by the claim, the method is not a patent eligible process under section 101. Therefore, Applicant incorrectly states on Remarks, page 19, paragraph 2 "it is understood that the question of whether a claim encompasses



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statutory subject matter should not focus on which of the four categories of subject matter a claim is directed to (process, machine, manufacture, or composition of matter) but rather on the essential characteristics of the subject matter, in particular, its particular utility." This is not a valid statement under 35 USC Section 101. Therefore, although Applicant claims the steps of a process, Applicant fails to claim or mention the presence of another statutory class. Not even the use of an apparatus is claimed. Applicant's claimed invention is as a result not statutory. The rejection is not withdrawn.

11. **With respect to Claims 32-50:** Current claims 32-50 comprise a method that used a computer readable medium which are basically software components and not an apparatus/machine as required by the 35 U.S.C. 101. There is no mention of an apparatus or structural elements or devices such as processor or computer or computer server.

### ***Information Disclosure Statement***

12. The Information Disclosure Statements filed on **9 April 2009** has been considered. Initialed copies of the Form 1449 are enclosed herewith.

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject

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matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. **Claims 1, 4, 6-10, 12-15, 18-28, 30-32, 34-38, 40-51, 53-67** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sandor et al. (US 2002/0246190 A1)** (hereinafter "**Sandor**") in view of **Schomer (US .6,108,617)**.

15. **With respect to claims 1: (Currently amended)** Sandor teaches:

- collecting production practice data of the producer for a pre-selected time period responsive to the protocol, said protocol being adapted to determine at least one of environmental emissions and environmental emissions removal associated with a production practice of said producer, wherein; (a) said environmental emissions removal is selected from a practice group consisting of sequestration, mitigation and avoidance, and (b) said production practice data is related to at least one of the following production sectors: agriculture, forestry, petroleum production, gas production, enhanced oil recovery, fuel production, ethanol production, semiconductor manufacturing, metal production, coal production, deep geologic sequestration, durable goods manufacturing, and waste management; (page 2, paragraph 21 – activity data collected based on energy consumption)
- converting the production practice data to environmental data using pre-selected conversion factors using a processing device; (page 2, paragraph 21 – “a factor for converting the activity data to one of the GHG emission or GHG emission conversion equivalents”)

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- converting at least a portion of the environmental data to a plurality of emission reduction unit for a transferring thereof using a processing device, each said emission reduction unit being adapted for use as at least one of an environmental offset, a credit, and an allowance; (page 2, paragraph 21 and page 3, paragraph 28 – “a factor for converting the activity data to one of the GHG emission or GHG emission conversion equivalents”; factor is based on selected activity unit) and

While Sandor does not teach, Schomer discloses:

- assigning a respective identifier to each emission reduction unit, wherein the identifier includes a sequence portion characterizing a succession thereof and a vintage portion characterizing the pre-selected time period for the production practice, and a characterizing portion characterizing at least one of (i) a geographical reference for the producer and (ii) the protocol, said characterizing portion comprising at least one of a first field identifying a protocol type, a second field identifying a version of the protocol, and a third field identifying an authority for the protocol; wherein. (col. 5, tables 2 and 3 – various alphanumeric and numeric codes specified)
- said identifier is adapted to be correlated with the production practice data and enables tracking of a status regarding the emission reduction unit. (col. 3, table 1, col. 5, tables 2-3 – various identifiers listed)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the details of the production practice and emission reduction

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unit of Sandor with the identifier in Schomer because of the need “to provide limited access to the data” (col. 2, lines 45-46).

Furthermore, the data identifying the characterizing portion in the current and following claims and the type production data is non-functional descriptive data.

When presented with a claim comprising descriptive material, an Examiner must determine whether the claimed nonfunctional descriptive material should be given patentable weight. The Patent and Trademark Office (PTO) must consider all claim limitations when determining patentability of an invention over the prior art. *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401,404 (Fed. Cir. 1983). The PTO may not disregard claim limitations comprised of printed matter. *See Gulack*, 703 F.2d at 1384-85, 217 USPQ at 403; *see also Diamond v. Diehr*, 450 U.S. 175, 191, 209 USPQ 1, 10 (1981). However, the examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. *See In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004). Thus, when the prior art describes all the claimed structural and functional relationships between the descriptive material and the substrate, but the prior art describes a different descriptive material than the claim, then the descriptive material is nonfunctional and will not be given any patentable weight. That is, such a scenario presents no new and unobvious functional relationship between the descriptive material and the substrate.

The Examiner asserts that the data identifying the characterizing portion adds little, if anything, to the claimed acts or steps and thus do not serve as limitations on the

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claims to distinguish over the prior art. MPEP 2106IV b 1(b) indicates that "nonfunctional descriptive material" is material "that cannot exhibit any functional interrelationship with the way the steps are performed". Any differences related merely to the meaning and information conveyed through data, which does not explicitly alter or impact the steps is non-functional descriptive data. Except for the meaning to the human mind, the data identifying the selectable options and the information displayed upon selection of the options does not functionally relate to the substrate and thus does not change the steps of the method as claimed. The subjective interpretation of the data does not patentably distinguish the claimed invention.

16. **With respect to claims 2-3: (Cancelled)**

17. **With respect to claims 4, 38 and 53: (Previously presented)** Sandor teaches the geographical reference includes a location representative of the production practice. (page 3, paragraph 24 – geographic location is one of the factors used).

Furthermore, the data identifying the geographic reference in the current and following claims is non-functional descriptive data. See non-functional descriptive data discussion above.

18. **With respect to claim 5: (Cancelled)**

19. **With respect to claim 6: (Previously presented)** Sandor teaches the limitations cited above. While Sandor does not disclose, Schomer teaches the emission reduction unit comprises a plurality of emission reduction units resulting from the environmental data converting, and wherein the sequence portion of the identifier includes a range of

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sequence numbers representing the plurality of emission reduction units. (col. 3, table 1, col. 5, tables 2-3 – various identifiers listed)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the details of the production practice and emission reduction unit of Sandor with the identifier in Schomer because of the need “to provide limited access to the data” (col. 2, lines 45-46).

Furthermore, the data identifying the details of the identifier in the current and following claims is non-functional descriptive data. See non-functional descriptive data discussion above.

20. **With respect to claims 7, 34 and 54: (Previously presented)** Sandor teaches pre-selected conversion factors selected from the group including reducing GHG emissions, providing clean water credits, providing clean air credits, providing soil erosion credits, and certifying animal welfare. (page 2, paragraph 21 and page 3, paragraph 28 – “a factor for converting the activity data to one of the GHG emission or GHG emission conversion equivalents”; factor is based on selected activity unit).

Furthermore, the data identifying the production practice in the current and following claims is non-functional descriptive data. See non-functional descriptive data discussion above.

21. **With respect to claims 8, 35 and 55: (Previously presented)** Sandor teaches the GHG reducing includes a parameter selected from parameters including effluent loading, quantity animals, manure containment storage period, manure containment storage practice, annual animal throughput, flaring volume, flaring efficiencies, gas

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types and generation rates, and chemical manufacturing efficiencies and emissions. (page 9, paragraphs 105, 107-108 – factors used to generate credits are methods that lead to reduction in CO<sub>2</sub> emissions).

Furthermore, the data identifying the type of GHG reducing in the current and following claims is non-functional descriptive data. See non-functional descriptive data discussion above.

22. **With respect to claim 9: (Previously presented)** Sandor teaches transmitting the production practice data to a data center; and receiving the production practice data at the data center; (page 4 paragraphs 52-54 – registry stores emission reduction practices and results).

23. **With respect to claims 10 and 56: (Previously presented)** Sandor teaches storing the identifier in a database; storing the production practice data in the database; and correlating the production practice data with the identifier for access thereto. (page 4 paragraphs 52-54 – registry stores emission reduction practices and results; registry has secure Internet access).

24. **With respect to claim 11: (Cancelled)**

25. **With respect to claims 12, 40 and 61: (Previously presented)** Sandor teaches at least one of selling, transferring, exchanging, and retiring the emission reduction unit. (page 4, paragraph 56; page 9, paragraph 111 - at year-end emission source must transfer allowances or offsets equal to total emissions).

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26. **With respect to claim 13: (Previously presented)** Sandor teaches warranting the production practice data by the producer. (page 5, paragraphs 69-70 – rules designate activities and monitor emissions).

27. **With respect to claim 14: (Previously presented)** Sandor teaches registering the emission reduction unit. (page 4 paragraphs 52-54 – registry stores emission reduction practices and results).

28. **With respect to claims 15, 41 and 60: (Currently amended)** Sandor teaches at least one of verifying a commercial suitability of the environmental emission unit, recording the registering, designating ownership of the environmental emission unit, and monitoring a transaction thereof. (page 4 paragraphs 52-54 – registry stores emission reduction practices and results).

29. **With respect to claim 16-17: (Cancelled)**

30. **With respect to claim 18: (Previously presented)** Sandor teaches the converting to an emission reduction unit includes choosing a registry jurisdiction. (page 5, paragraph 62 – details the information that can be included in the registry such as system products and emission reduction commitments).

31. **With respect to claims 19, 42 and 61: (Previously presented)** Sandor teaches assigning a registry designator to the emission reduction unit and correlating the registry designator to the registry jurisdiction. (page 5, paragraph 62 – details the information that can be included in the registry such as system products and emission reduction commitments).



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32. **With respect to claims 20, 43 and 62: (Previously presented)** Sandor teaches the limitations cited above. However, while Sandor does not Schomer teaches storing the registry designator, identifier, and production practice data; correlating the registry designator with the identifier and the identifier with the production practice data for access thereto. (col. 3, table 1, col. 5, tables 2-3 – various identifiers listed).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the details of the production practice and emission reduction unit of Sandor with the identifier in Schomer because of the need “to provide limited access to the data” (col. 2, lines 45-46).

33. **With respect to claims 21 and 63: (Previously presented)** Sandor teaches providing a password for retrieving the registry designator; and receiving a status regarding at least one of the emission reduction unit and the production practice data. (page 4, paragraph 54 – secure Internet access by participants).

34. **With respect to claims 22 and 44: (Previously presented)** Sandor teaches transferring the emission reduction unit and providing a transaction verification therewith, wherein the transaction verification includes the identifier of the emission reduction unit. (page 4, paragraph 56; page 9, paragraph 111 - at year-end emission source must transfer allowances or offsets equal to total emissions).

35. **With respect to claims 23, 45 and 65: (Previously presented)** Sandor teaches the transaction verification includes a certificate having the identifier carried thereon. (page 4, paragraph 56; page 9, paragraph 111 - at year-end emission source must transfer allowances or offsets equal to total emissions; verification reports issued).

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36. **With respect to claims 24 and 46: (Previously presented)** Sandor teaches the identifier provides information regarding the protocol, the pre-selected time period, the geographical reference, and a sequence for the emission reduction unit corresponding to the emission reduction unit transferring. (page 3, paragraph 24 – geographic location is one of the factors used; page 4, paragraph 56; page 9, paragraph 111 - at year-end emission source must transfer allowances or offsets equal to total emissions).

37. **With respect to claim 25: (Previously presented)** Sandor teaches establishing a pool of emission reduction units and accessing the pool during a point of sale event for reducing at least a portion of the environmental emissions resulting from the point of sale event. (page 4, paragraphs 59 - 60 – emission allowances sold at auction).

38. **With respect to claim 26: (Previously presented)** Sandor teaches transferring the emission reduction unit for offsetting at least a portion of an environmental emission. (page 4, paragraph 56 - at year-end emission source must transfer allowances or offsets equal to total emissions).

39. **With respect to claims 27 and 47: (Previously presented)** Sandor teaches the environmental emission results from at least one of an emitter, a plurality of emitters, and a variety of emitters, and wherein the emitter is at least one of a direct emitter and an indirect emitter. (page 7, paragraph 84 – multi sector emissions monitoring).

40. **With respect to claim 28: (Previously presented)** Sandor teaches allocating emission reduction units resulting from a plurality of producers controlled by a

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controlling entity for offsetting environmental emissions of the controlling entity. (page 9, paragraphs 105-107 – offset project categories include carbon sequestration).

41. **With respect to claim 29: (Cancelled)**

42. **With respect to claims 30, 49 and 66: (Previously presented)** Sandor teaches recording a time for the production practice data collecting and a geographic location thereof. (page 3, paragraph 24 – geographic location is one of the factors used).

43. **With respect to claims 31, 50 and 67: (Previously presented)** Sandor teaches comprising reserving an emission reduction unit having at least one of a pre-selected geographic reference, protocol, and time period. (page 3, paragraph 24 – geographic location is one of the factors used).

44. **With respect to claim 32: (Currently amended)** Sandor teaches:

- storing production practice data of at least one producer in a database on a storage medium, said production practice data being representative of at least one of environmental emissions and environmental emissions removal for a time period, said production practice data being collected for a pre-selected time period responsive to a protocol, said protocol being adapted to determine at least one of environmental emissions and environmental emissions associated with a production practice of said producer; wherein
  - a. said environmental emissions removal is selected from a practice group consisting of sequestration, mitigation and avoidance, and said

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production practice data is related to at least one of the following production sectors: agriculture, forestry, petroleum production, gas production, enhanced oil recovery, fuel production, ethanol production, semiconductor manufacturing, metal production, coal production, deep geologic sequestration, durable goods manufacturing, and waste management;

- storing a plurality of identifiers in the database on a storage medium, each said identifier being assigned to a respective one of [[the]] a plurality of emission reduction units, wherein each said emission reduction unit results from (i) converting the production practice data to environmental data using pre-selected conversion factors and (ii) converting the environmental data to the plurality of emission reduction units for a transferring thereof, each said emission reduction unit being adapted for use as at least one of an environmental offset, a credit, and an allowance; wherein,
  - b. the identifier includes a sequence portion characterizing a succession thereof, a vintage portion characterizing the time period for the production practice, and a characterizing portion characterizing at least one of (i) a geographical reference for the producer and (ii) the protocol, said characterizing portion comprising at least one of a first field identifying a protocol type, a second field identifying a version of the protocol, and a third field identifying an authority for the protocol,

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wherein said identifier is adapted to be correlated with the production practice data and enables tracking of a status regarding the emission reduction unit.

(Sandor: paragraphs 190-191 – the databases 1534 can stored on a non-volatile storage medium or a device known to those of ordinary skill in the art (e.g., compact disk (CD), digital video disk (DVD), magnetic disk, internal hard drive, external hard drive, random access memory (RAM)).

45. **With respect to claim 33: (Cancelled)**

46. **With respect to claim 36: (Previously presented)** Sandor teaches the limitations cited above. While Sandor does not disclose, Schomer teaches the characterizing portion of the identifier includes at least one of a first field identifying a protocol type, a second field identifying a version of the protocol, and a third field identifying an authority for the protocol. (col. 3, table 1, col. 5, tables 2-3 – various identifiers listed).

47. **With respect to claim 37: (Previously presented)** Sandor teaches the pre-selected time period comprises a calendar year for the production practice by the producer. (page 5, paragraph 72 – baseline emission levels reviewed on a year to year basis among participants)

Furthermore, the data identifying the specific time period in the current and following claims is non-functional descriptive data. See non-functional descriptive data discussion above.

48. **With respect to claim 39: (Cancelled)**

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49. **With respect to claim 47: (Previously presented)** Sandor teaches wherein [[the]] an environmental emission is offset by an emission reduction unit and said environmental emission results from at least one of an emitter, a plurality of emitters, and a variety of emitters, and wherein the emitter is at least one of a direct emitter and an indirect emitter. (page 7, paragraph 84 – multi sector emissions monitoring).

50. **With respect to claim 48: (Previously presented)** Sandor teaches allocating at least a portion of the plurality of emission reduction units to a producer of environmental emissions for an offsetting thereof. (page 4, paragraph 56 - at year-end emission source must transfer allowances or offsets equal to total emissions).

51. **With respect to claim 51: (Currently amended)** Sandor teaches:

- converting [[the]] production practice data to environmental data using-the-protocol pre-selected conversion factors using a processing device, said production practice data being collected from at least one producer for a pre-selected time period responsive to a protocol, said protocol being adapted to determine at least one of environmental emissions and environmental emissions removal associated with a production practice of said producer, wherein; said environmental emissions removal is selected from a practice group consisting of sequestration, mitigation and avoidance; and said production practice data is related to at least one of the following production sectors: agriculture, forestry, petroleum production, gas production, enhanced oil recovery, fuel production, ethanol production, semiconductor manufacturing, metal production, coal

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production, deep geologic sequestration, durable goods manufacturing, and waste management; (page 2, paragraph 21 and page 3, paragraph 28 – “a factor for converting the activity data to one of the GHG emission or GHG emission conversion equivalents”; factor is based on selected activity unit)

- converting at least a portion of the environmental data to a plurality of emission reduction units using a processing device, each said emission reduction unit being adapted for use as at least one of an environmental offset, a credit, and an allowance; wherein, (page 2, paragraph 21 and page 3, paragraph 28 – “a factor for converting the activity data to one of the GHG emission or GHG emission conversion equivalents”; factor is based on selected activity unit)

While Sandor does not teach, Schomer discloses:

- a. each of the plurality of emission reduction units has an assigned identifier, comprising a sequence portion characterizing a succession thereof and a vintage portion characterizing the pre-selected time period for the production practice, and a characterizing portion characterizing at least one of [[the]] (i) a geographical reference for the producer and (ii) the protocol, said characterizing portion comprising at least one of a first field identifying a protocol type, a second field identifying a version of the protocol, and a third field identifying an authority for the protocol;

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wherein. said identifier is adapted to be correlated with the production practice data and enables tracking of a status regarding the emission reduction unit. (col. 3, table 1, col. 5, tables 2-3 – various identifiers listed)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the details of the production practice and emission reduction unit of Sandor with the identifier in Schomer because of the need “to provide limited access to the data” (col. 2, lines 45-46).

52. **With respect to claim 52: (Cancelled)**

53. **With respect to claim 57: (Previously presented)** Sandor teaches providing a password for accessing the database; accessing the database using the password; providing the identifier of the emission reduction unit; and receiving a status regarding the emission reduction unit. (page 4 paragraphs 52-54 – registry stores emission reduction practices and results; registry has secure Internet access).

54. **With respect to claim 58: (Previously presented)** Sandor teaches registering at least a portion of the plurality of emission reduction units within a registry jurisdiction for providing a plurality of registered units. (page 5, paragraph 62 – details the information that can be included in the registry such as system products and emission reduction commitments).

55. **With respect to claim 64: (Previously presented)** Sandor teaches providing a transaction verification for each of the plurality of registered units transferred out of the registry. (page 9, paragraph 111 – registry accounts have verification reports).



***Other References***

56. Examiner also considered the US patent Soestbergen et al. (2002/0143693 A1) which reads on the limitations documented in independent claims 1, 32 and 51.

### **CONCLUSION**

57. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heidi Riviere whose telephone number is 571-270-1831. The examiner can normally be reached on Monday-Friday 9:00am-5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/H. R./

Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689